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AGENDA NO. 36 – Adopt Rule 1420.1 – Emissions Standard for Lead from Large Lead-acid Battery Recycling Facilities

Please add the following comments and responses to “Attachment G – Appendix A: Comments and Responses”

101.Comment: Communities are concerned that lead monitoring once every three days allows facilities to tailor their production around the monitoring schedule. The rule needs to be rewritten to ensure that the facilities do not stop or reduce their production during sampling days and/or increase production when samples are not taken.

Response: A provision was added to the proposed rule to address the need for additional monitoring if the facility exceeds the new lead standard of 0.15 $\mu\text{g}/\text{m}^3$. Paragraph (j)(9) requires sampling to be conducted on a daily basis for sixty consecutive days if the facility exceeds the ambient air lead concentration standard of 0.15 $\mu\text{g}/\text{m}^3$ averaged over any 30 consecutive days. PR 1420.1 requires sampling one day in every three days. Historic sampling results indicate that spikes or excursions are typically not related to process emissions, but rather, to fugitive emissions from housekeeping or maintenance activities. Based on recent sampling at affected facilities, the AQMD staff believes that sample collections once every three days provides a good representation of lead emissions.

102.Comment: The original draft of the rule stated that enclosure may be required of “Any other area used in the lead-acid battery recycling operation to process or store lead-containing materials deemed necessary by the Executive Officer.” We request this provision be reinstated as a valuable tool that can be utilized to further reduce lead emissions.

Response: Based on discussions at the PR 1420.1 Working Group meetings, additional enclosures are now required to be listed in the compliance plan requirements in subparagraph (g)(2)(A) as one of the additional lead emissions reduction measures which can be implemented by the facility in the event of an exceedance of the 0.15 $\mu\text{g}/\text{m}^3$ ambient lead standard averaged over any 30 days. This provision was moved to the compliance plan because enclosures are required in paragraph (e)(1) for battery breaking areas; material storage and handling areas excluding areas where unbroken lead-acid batteries and finished lead products are stored; dryer and dryer

areas including transition pieces; smelting furnaces and smelting furnace areas changing any lead containing material; agglomerating furnaces and agglomerating furnace areas charging any lead-containing materials; and refining and casting areas.

103.Comment: The original draft of the rule stated that “Sweeping activities shall not be performed within 10 meters of any ambient air monitor location specified in subdivision (g) that is undergoing sample collection.” We would like the wording to be restored along with additional language that specifies no fogging, misting, spraying of water or other liquids shall occur within 20 meters of any ambient air monitoring during sample collection. We understand that this has been a problem in the past.

Response: This provision has been changed from the original draft in response to similar comments made at the Working Group meetings. It has been moved to paragraph (j)(8) and now reads “Cleaning activities including, but not limited to, wet washing and misting, that result in damage or biases to samples collected shall not be conducted within 10 meters of any sampling site required under this subdivision.”

104.Comment: In light of the many times hazardous waste levels of lead have been detected in the soils surrounding Quemetco, we would like the rule to require that the monitoring be conducted in such a way as to detect lead that is kicked up by wind or train or truck traffic. Quemetco released 7121 pounds of lead from their stacks and fugitive dust emissions between 1995 and 1999. Testing done by Quemetco and DTSC in 2004 revealed gross lead contamination surrounding the facility and that the contamination is more widespread and greater than originally expected. How does the AQMD plan on monitoring the air levels at the precise times when trucks and trains are kicking up dust that contains high lead levels.

Response: The AQMD maintains a U.S.-EPA approved network of source and non-source oriented monitors. Source-oriented monitors are located near lead-emitting facilities and non-source oriented monitors are located at 10 sites throughout the AQMD. Monitoring at the sites is required to be conducted as a 24 hour sample on a midnight to midnight basis. This means that all hours of the day are accounted for, including winds and traffic considerations. Quemetco’s total lead emissions from point sources are currently less than 0.003 pounds per hour, considerably less than several years ago. This reduction is due to additional controls Quemetco added to reduce air toxic emissions required by the AB 2588 Toxics “Hot Spots” program. Current air monitoring

data from Quemetco's monitors shows that they are close to the new NAAQS and, with completion of their total enclosure for the battery breaking area and adherence to all PR 1420.1 requirements, the facility is expected to be in compliance with the new standard.

105.Comment: The rule requires facilities to pave over or encapsulate contaminated soil in areas other than locations less than 100 square feet used for planters. By not coordinating with the Department of Toxic Substances Control (DTSC), U.S.-EPA, and the Los Angeles Regional Water Quality Board to mandate clean up of the contamination that potentially threatens ground water; this requirement effectively facilitates a cover up and inhibits the implementation of responsible corrective action.

Response: This provision states that the facility shall "Pave, concrete, asphalt, or otherwise encapsulate all facility grounds as approved by the Executive Officer." The intent of the encapsulation requirement of PR 1420.1 is to prevent fugitive dust from being kicked up, facilitate cleaning of the areas, and minimize track out from the facility. Essentially all areas at both facilities are already in compliance with this requirement. The AQMD staff currently works closely with other regulatory agencies and agrees that the AQMD should cooperate and coordinate with DTSC, U.S.-EPA, and water boards. A DTSC representative participated as a member of the PR 1420.1 Working Group and worked closely with staff throughout the process of developing PR 1420.1 to ensure that requirements would not overlap or conflict with any of their requirements and ongoing efforts to address soil contamination. DTSC also sent a letter of support for the housekeeping requirements for surface impoundment ponds (see comment 76).

106.Comment: The manner in which the current rule is written with the compliance plan and timetable offers no immediate remedy to the community. We request that a provision be added that would require facilities to reduce their throughput and decrease the quantity of material processed when they exceed the 0.15 $\mu\text{g}/\text{m}^3$ limit. This would bring them into compliance in a timely manner while they implemented their Compliance Plan and is a similar provision to one included in Quemetco's previous Title V permit.

Response: If a facility exceeds the 0.15 $\mu\text{g}/\text{m}^3$ standard, the facility must begin implementing their compliance plan. The compliance plan includes measures for process changes including reduced throughput limits and conditional curtailments under clauses (g)(2)(A)(v) and (vi).

107.Comment: A proposal to change the facility total point source mass emission rate from 0.045 pounds per hour to 0.003 pounds per hour would constitute a major change to PR 1420.1. Any action by the Governing Board on this proposal at the October 1, 2010 meeting would violate the procedural rulemaking requirements of the California Health & Safety Code by not allowing time performing additional environmental and socio-economic impact assessment. At a minimum, Health & Safety Code Section 40726 would require additional opportunity for public comment, and revisions to the District staff report and supporting assessments addressing such a major change.

Response: The AQMD Governing Board will not take action on any proposed change to 0.003 pounds per hour at the October 1, 2010 meeting. The proposal will be introduced and, if the Board directs staff to consider the proposal, the Public Hearing would be delayed until the next Governing Board meeting on November 5, 2010 to allow time for additional assessments and public comment and testimony.